

Exhibit 401

United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al.
v. Dey, Inc., et al., Civil Action No. 05-11084-PBS

**Exhibit to the August 28, 2009 Declaration of Sarah L. Reid in Support
of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment**

Ahrens, Katherine

May 20, 2009

Sacramento, CA

Page 1

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 -----X

4 In re: PHARMACEUTICAL) MDL No. 1456

5 INDUSTRY AVERAGE WHOLESALE)

6 PRICE LITIGATION) Master File No.

7 -----) 01-12257-PBS

8 THIS DOCUMENT RELATES TO:) Subcategory Case

9 State of California ex rel.) No. 06-11337

10 Ven-A-Care of the Florida) Hon.

11 Keys, Inc. v. Abbott Labs,) Patti B. Saris

12 Inc, et al.,)

13 Civil Action No.)

14 03-11226-PBS)

15 -----X

16
17 VIDEOTAPED DEPOSITION OF

18 KATHERINE AHRENS

19 Wednesday, May 20, 2009

20 Sacramento, California

21
22 REPORTED BY: JOHN P. SQUIRES, CCRR, CSR No. 2001

Ahrens, Katherine

May 20, 2009

Sacramento, CA

Page 87

1 the reimbursement.

2 It's the basis for a calculation --

3 MR. CYR: Q. Okay.

4 A. -- that would lead to the reimbursement.

5 Q. Okay.

6 A. But it wasn't the reimbursement.

7 Q. Okay. And what was the calculation for
8 the reimbursement?

9 A. Again, the lowest of the AWP minus --
10 depending upon the time period -- either five
11 percent, 10 percent or 17 percent.

12 Q. Okay.

13 A. Or the FAC or the MAIC plus a dispensing
14 fee.

15 Q. Okay. Okay. You had mentioned that the
16 reimbursement payment to the pharmacist was one of
17 the factors you looked at when considering the
18 cost -- or one of the factors -- one of the
19 elements that made up the cost to the program.

20 What are the other elements that make up
21 the -- that make up the cost? I'm sorry. Go
22 ahead.

Ahrens, Katherine

May 20, 2009

Sacramento, CA

Page 88

1 A. Again, how cost was evaluated was
2 defined in regs, and so all those elements in that
3 definition were included in the evaluation. So
4 offsets, the cost of the drug itself, any
5 supplemental rebates that the manufacturer might
6 propose --

7 Q. Okay.

8 A. -- and the rebate that was due pursuant
9 to the federal rebate agreement.

10 Q. Okay. You had mentioned another piece
11 of data that the manufacturer would provide to you
12 with a petition, AMP.

13 A. The manufacturer would not provide the
14 AMP all the time. During the course of the
15 negotiations or evaluation of the drug, the AMP
16 may have been provided, depending upon the
17 proposal submitted by the manufacturer.

18 Q. Okay. You mentioned a phrase in there,
19 "supplemental rebate." What do you mean by that?

20 A. Supplemental rebate is an amount that
21 the manufacturer agrees to provide the State
22 pursuant to agreement that is beyond what the